

# CASE PROCESSING STANDARDS ANALYSIS

## PROBATE - GUARDIANSHIP/CONSERVATORSHIP OF ADULTS

### National Center for State Courts Model Time Standards:

98% within 90 days after filing petition

**Measurement:** Filing of petition through adjudication.

### Arizona Probate - Guardianship/Conservatorship of Adults

The following standards have been adopted for Guardianship/Conservatorship cases:

**80% within 90 days**

**98% within 365 days**

- ✓ Excludes guardianship/conservatorship of a minor.
- ✓ Excludes the appointment of temporary guardian/conservators.
- ✓ Excludes appointment of guardians ad litem.
- ✓ Excludes elder abuse cases.
- ✓ Includes orders appointing limited guardians.

**Measurement:** Filing of petition for appointment of guardian/conservator through denial of the petition or issuance of a court order appointing a fiduciary on a non-temporary basis.

**Excluded Time:** No excluded time.

| Arizona Rules and Statutes   | Timelines under Statute and Rule   |
|--|--|
| <b>Petition Filed:</b><br>Rule 15, ARPP <sup>1</sup><br>ARS <sup>2</sup> § 14-5303(A)<br><br>ARS § 14-5404<br><br>ARS § 14-5405(B)<br>ARS § 14-5309(B) | <p style="color: red; text-align: center;"><b>(Measurement Starts Here)</b></p> <p><b><u>Petition to appoint guardian:</u></b> The alleged incapacitated person or any person interested in that person's affairs or welfare may petition for the appointment of a guardian or for any other appropriate protective order.</p> <p><b><u>Petition to appoint conservator:</u></b> The person allegedly in need of protection, any person who is interested in that person's estate or affairs, including that person's parent, guardian or custodian, or any other person who would be adversely affected by the lack of effective management of that person's estate and affairs, may petition for the appointment of a conservator or for any other appropriate protective order.</p> <p><b><u>Service:</u></b> At least <b>14 days</b> before the hearing, notice must be served on the ward or protected person, or the person allegedly incapacitated or in need of protection and that person's spouse and parents if they can be found within the state.</p> |

<sup>1</sup> Arizona Rules of Probate Procedure

<sup>2</sup> Arizona Revised Statutes

| Arizona Rules and Statutes   | Timelines under Statute and Rule  |
|--|---|
| <p>Rule 15(c), ARPP<br/>ARS § 14-5303(C)<br/>ARS § 14-5407(B)</p> <p>ARS § 14-5303(C) and (D)<br/>ARS § 14-5407(B)</p> | <p><b><u>Hearing:</u></b> Upon a filing of a petition, the petitioner must obtain an initial hearing date and time. The petitioner must serve all interested parties with a copy of the petition and notice of hearing and shall file proof of service at or before the hearing.</p> <p><b><u>Appointment of attorney, medical professional, and investigator:</u></b><br/>In conservatorship cases, unless the person to be protected has counsel of that person's own choice, the court must appoint an attorney to represent that person. If the alleged disability is mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, or chronic intoxication, the court must appoint an investigator to interview the person to be protected. On petition by an interested person or on the court's own motion, the court may direct that an appropriate medical or psychological evaluation of the person be conducted. The investigator and the person conducting the medical or psychological evaluation must submit written reports to the court before the hearing date.</p> <p>In guardianship cases, unless the alleged incapacitated person is represented by independent counsel, the court must appoint counsel to represent that person in the proceeding. The alleged incapacitated person must be interviewed by an investigator appointed by the court and must be examined by a qualified physician, psychologist, or registered nurse appointed by the court. The investigator and the person conducting the examination shall submit their reports in writing to the court.</p> |
| <p><b>Pretrial Procedures:</b><br/>Rule 27, ARPP</p> <p>Rule 28, ARPP</p>  | <p><b><u>Scheduling Conference:</u></b> If a petition is contested, the court must enter an order setting litigation deadlines or order the parties to confer and set a deadline for the parties to file a joint report and proposed scheduling order as described in this rule.</p> <p><b><u>Discovery and Disclosure:</u></b> Unless inconsistent with these rules, Civil Rules 26 through 37 apply to disclosure and discovery in contested probate proceedings, except that Civil Rule 26(f)(1) is replaced by Probate Rule 28(a)(2), and Civil Rule 26.2 is replaced by Probate Rule 28(b).</p>  |
| <p><b>Adjudication:</b><br/>Rule 37, ARPP</p> <p>Rule 36(a)(3), ARPP</p>   | <p><b><u>Order to Fiduciary:</u></b> Letters of guardianship or conservatorship must not be issued until the appointed fiduciary has signed an acknowledgment, and the court has entered an order to the same.</p> <p style="text-align: center;"><b>(Measurement Stops Here)</b></p> <p><b><u>Bond Amount:</u></b> Any order requiring a bond must state the bond amount. Letters of appointment will not issue until the bond has been filed.</p>   |